

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON

**ERIC ELKINS OBO
BEVERLY G. ELKINS,**

Plaintiff,

v.

CASE NO. 2:15-cv-04386

**CAROLYN W. COLVIN,
Acting Commissioner of Social Security,**

Defendant.

PROPOSED FINDINGS AND RECOMMENDATION

Currently pending before this Court is Plaintiff's Brief in Support of Judgment on the Pleadings (ECF No. 10) and Defendant's Uncontested Motion to Remand (ECF No. 13). This case was referred to this United States Magistrate Judge by standing order to consider the pleadings and evidence, and to submit proposed findings of fact and recommendation for disposition, all pursuant to 28 U.S.C. § 636(b)(1)(B). Defendant moves this Court for the entry of an order remanding this case to the Commissioner. Defendant represents that on remand, the Administrative Law Judge will re-evaluate Claimant's carpal tunnel syndrome and the opinion of Dr. Lim, reassess Claimant's residual functional capacity and give further consideration to Claimant's ability to perform past relevant work and other work in the national economy, with vocational expert assistance if necessary (ECF No. 13). Additionally, Defendant reports that the pages erroneously included in the record that do no pertain to Claimant will be removed. Defendant represents that Claimant's counsel has no objection to the remand.

The court proposes that the District Court find that Defendant has shown good cause for a remand pursuant to the fourth sentence of 42 U.S.C. § 405(g). It is hereby respectfully RECOMMENDED that the District Court GRANT Defendant's Motion to Remand (ECF No. 13), reverse the final decision of the Commissioner, remand this case for further proceedings pursuant to the fourth sentence of 42 U.S.C. § 405(g) and DISMISS this matter from this Court's docket.

The parties are notified that this Proposed Findings and Recommendation is hereby FILED, and a copy will be submitted to the District Judge Thomas E. Johnston. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Rules 6(e) and 72(b), Federal Rules of Civil Procedure, the parties shall have three days (mailing/service) and then ten days (filing of objections) from the date of filing this Proposed Findings and Recommendation within which to file with the Clerk of this court, specific written objections, identifying the portions of the Proposed Findings and Recommendation to which objection is made, and the basis of such objection. Extension of this time period may be granted for good cause shown.

Failure to file written objections as set forth above shall constitute a waiver of *de novo* review by the District Court and a waiver of appellate review by the Circuit Court of Appeals. *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Wright v. Collins*, 766 F.2d 841, 846 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Copies of such objections shall be served on opposing parties, Judge Johnston, and this Magistrate Judge.

The Clerk is directed to file this Proposed Findings and Recommendation and to mail a copy of the same to counsel of record.

Enter: June 27, 2016



Dwane L. Tinsley
United States Magistrate Judge